

**DISASTER, RESILIENCE, INTERNATIONAL AFFAIRS, AND
PLANNING COMMITTEE**
Council of the County of Maui

MINUTES

November 20, 2024

Online Only via Teams

RECONVENE: 1:35 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Nohelani U‘u-Hodgins, Vice-Chair
Councilmember Tom Cook, Member
Councilmember Tasha Kama, Member (In 2:10 p.m.)
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member

NON-VOTING MEMBERS:

Councilmember Alice L. Lee, Member

EXCUSED: VOTING MEMBERS:

Councilmember Yuki Lei Sugimura, Member

STAFF:

Jarret Pascual, Legislative Analyst
Kasie Apo Takayama, Senior Legislative Analyst
Keone Hurdle, Legislative Analyst
Megan Moniz, Legislative Attorney
Maria Leon, Committee Secretary
Jean Pokipala, Council Services Assistant Clerk
Lei Dinneen, Council Services Assistant Clerk

Zhantell Lindo, Council Aide, Molokai Residency Area Office
Bill Snipes, Council Aide, South Maui Residency Area Office
Roxanne Morita, Council Aide, Lāna‘i Residency Area Office
Mavis Oliveira, Council Aide, East Maui Residency Area Office
Jade Rojas-Letisi, Council Aide, Makawao-Ha‘ikū-Pā‘ia Residency Area Office

ADMIN.:

Danny Dias, Planning Program Administrator, Department of Planning (DRIP-2(24))
Patrick McCall, Director, Department of Parks and Recreation (DRIP-2(24))
Saumalu Mataafa, Deputy Director, Department of Housing (DRIP-2(24))
James “Kimo” Landgraf, Deputy Director, Department of Water Supply (DRIP-2(24))
Jase Miyabuchi, Civil Engineer VI, Department of Water Supply (DRIP-2(24))
Shayne Agawa, Director, Department of Environmental Management (DRIP-2(24))
Mimi DesJardins, First Deputy Corporation Counsel, Department of the
Corporation Counsel (DRIP-2(24))

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OTHERS: Pam Bunn, Maui Oceanview LP (DRIP-2(24))
Paul Cheng, Maui Oceanview LP (DRIP-2(24))
Kai Nishiki, Executive Director, Maui Nui Resiliency Hui (DRIP-2(24))
Sarah Freistat Pajimola, Executive Director, Maui Nui Resiliency Hui (DRIP-2(24))

Testifiers

Teddy Barbosa (DRIP-2(24))

(21+) additional attendees

PRESS: *Akakū: Maui Community Television, Inc.*

CHAIR PALTIN: . . .*(gavel)*. . . Aloha ‘auinalā kākou. The time is now 1:35, and will the Disaster, Resilience, International Affairs, and Planning Committee meeting come to order. If everyone could please silence their cell phones or noisemaking devices, that will help our cause. Members, welcome back to the reconvened meeting of October 30th, 2024. The time is 1:35 p.m., and today’s date is November 20, 2024. Under the Sunshine Law, if you are not in the Kalana Pakui Building Conference Room...Planning Conference Room, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Please see the last page of the agenda for information on meeting connectivity. My name is Tamara Paltin, and I’ll be your Chair for today’s DRIP Committee meeting. And with us we have Vice-Chair Nohe U’u-Hodgins, konnichiwa and aloha ‘auinalā.

VICE-CHAIR U’U-HODGINS: Konnichiwa, Chair. Aloha, everyone. I’m at the Pā‘ia District Office with Jade Rosas-Letisi, and we have no testifiers right now. Thank you.

CHAIR PALTIN: Thank you. Member Cook and Member Kama had let me know that they are going to be a little late today. So, moving on, aloha ‘auinalā and konnichiwa to Councilmember Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha ‘auinalā kākou, mai Molokai Nui a Hina. I’m at my private residence, alone here, and there are currently no testifiers at the Molokai District Office. Mahalo.

CHAIR PALTIN: Thank you and . . .*(echoing)*. . . we also have with us Councilmember Shane Sinenci of East Maui.

COUNCILMEMBER SINENCI: Aloha, Chair, and konnichiwa. Here at my home office, here by myself, and there are no testifiers at the Hāna District Office, Chair.

CHAIR PALTIN: Thank you. And Councilmember Yuki Lei Sugimura has been excused. We just have the presence of Councilmember Tom Cook, konnichiwa, aloha ‘auinalā, and I see you have very valuable blood.

COUNCILMEMBER COOK: Konnichiwa, and aloha, and good afternoon. I’m glad to be here.

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CHAIR PALTIN: And our Non-Voting Members, Committee Members, are welcome to join at any time. Member Johnson is not...not here with us, but we do have Council Chair Alice Lee. Konnichiwa and aloha 'auinalā.

COUNCILMEMBER LEE: Konnichiwa, Chair, and aloha 'auinalā. And I'm glad you got the Japanese greeting correct. Because we said ohayo gozaimasu, and that is for the morning. Thank you.

CHAIR PALTIN: Humboom bau (*phonetic*). . . .(*laughing*). . . Okay. This meeting of the Disaster, Resilience, International Affairs, and Planning Committee of the Maui County Council is located on the traditional 'āina of the Kānaka 'Ōiwi, who never ceded their sovereignty to the United States. We recognize that Her Majesty Queen Lili'uokalani yielded the Hawaiian Kingdom to the United States in duress under threat of violence to avoid the bloodshed of her people. We further recognize that Hawai'i remains an illegally occupied nation-state by the United States, as documented in a 2021 scholarly article for the National Lawyers Guild Review by Andrew Reid, Adjunct Professor of Law, at the University of Denver Sturm College of Law. Generations of Kānaka Maoli and their knowledge systems have sustainably cared for Hawai'i, and continue to do so. We are grateful to occupy this space and learn the ways in which we can contribute. As a Committee, we seek to support the varied strategies that indigenous peoples of Hawai'i are using to protect their land and their communities, and commit to dedicating time and resources to working in solidarity. From the Administration, we have Shayne Agawa, Director of the Department of Environmental Management; Saumalu Mataafa, Deputy Director of the Department of Housing; Pat McCall, Director of the Department of Parks and Recreation; Danny Dias, the Planning Program Administrator, Department of Planning; Kimo Landgraf, Deputy Director, Department of Water Supply; and Mimi DesJardins, First Deputy Corp...First Deputy of the Department of Corporation Counsel. Other resources that we have with us today are Kai Nishiki and Sarah Freistat Pajimola, Executive Directors, Maui Nui Resiliency Hui; Paul Cheng and Pam Bunn of Maui Oceanview LP. These individuals were designated as resource persons under Rule 18(A) of the Rules of the Council on October 30th, 2024. Our Committee Staff today, we have Committee Secretary Maria Leon, Senior Legislative Analyst Kasie Apo Takayama, Legislative Analyst Jarret Pascual, Legislative Analyst Trainee Keone Hurdle, and Assistant Clerk Jean Pokipala. So, we have, I believe, deferred agenda item DRIP-2(23), and we were still in public testimony for DRIP-2(24), Discussion on Proposed Change in Zoning for Pulelehua. If you had testified on October 30th, I don't think you can re-testify this time, only new testifiers. Testimony for DRIP-2(23) closed on October 30th, 2024 at 2:32 p.m. DRIP-2(23) was also deferred pending further discussion and the answer of questions that we sent out.

**ITEM 2(24): DISCUSSION ON PROPOSED CHANGE IN ZONING FOR
PULELEHUA (RULE 7(B))**

CHAIR PALTIN: Testimony remains open for DRIP-2(24). Written testimony is encouraged, and can be submitted via the eComment link at mauicounty.us/agendas. Testifiers

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wanting to provide oral testimony should join the online meeting via the Microsoft Teams link printed on today's agenda, or call in to the phone number, which is also on today's agenda. For individuals wishing to testify via Teams, please raise your hand by clicking on the raise-your-hand button near the top right of your screen. For those calling in, please follow the prompts via phone. Staff will add names to the testifier list in the order testifiers sign up or raise their hands. For those on Teams, Staff will lower your hand once your name is added. Staff will then call the name you're logged in under or the last four digits of your phone number when it is your time to testify. At that time, Staff will also enable your microphone and video. If you wish to testify anonymously, please notify Staff, otherwise please state your name for the record at the beginning of your testimony. Oral testimony is limited to three minutes. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. Once you are done testifying, or if you do not wish to testify, you can view the meeting on *Akakū* Channel 53, Facebook Live, or mauicounty.us/agendas. At this time, we will call on testifiers wishing to testify on DRIP-2(24).

MS. APO TAKAYAMA: Chair, we currently only have one individual signed up, and that's Teddy Barbosa.

CHAIR PALTIN: Teddy Barbosa, it's your time to testify.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. BARBOSA: Aloha, everyone. My name is Teddy Barbosa. I'm the Maui Island representative with the Hawai'i Operating Engineers Industry Stabilization Fund. While we support the intent of building affordable housing, we have strong concerns about the Pulelehua Project, and at this point oppose the project until changes can be made. There is a right way and a wrong way to do things. Hawai'i Revised Statutes, Chapter 104, Wages and Hours of Employees on Public Works defines what a public work is. Public work means any project, including development of any housing pursuant to Section 46-15 or Chapter 201H, and development, construction, renovation, and maintenance related to refurbishment of any real or personal property where the funds or resources required or used to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any County. The moment this project was approved to receive County funds made the whole project covered under Chapter 104. We have been in contact with the Maui County Department of Housing to verify if the developer has submitted certified payrolls to prove their compliance with the law. To date, the Department of Housing has not received any records verifying the developer's compliance with the law. While we have been a staunch supporter of affordable housing, we cannot support a project that is not in compliance with the law. Ignorance of the law is not an excuse. Thank you.

CHAIR PALTIN: Thank you, Mr. Barbosa. Members, any questions for the testifier? Chair Lee.

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COUNCILMEMBER LEE: Hi. I have just a clarifying question. If the developer becomes in compliance with the law, would you then support the project?

MR. BARBOSA: Yes.

COUNCILMEMBER LEE: Thank you. Thank you.

CHAIR PALTIN: Any other questions for Mr. Barbosa? Seeing none. Thank you for your testimony. Is there anyone else wishing to testify?

MS. APO TAKAYAMA: Chair, Staff has not received any further requests for testimony at this time. Would you like for me to do a last call? If anyone would like to testify, please raise your hand by clicking on the raise-your-hand button online, or pressing star-5 via phone. Last call for testimony...three, two, one. Chair, seeing no individuals wishing to testify.

CHAIR PALTIN: Okay. Members, any objection to closing public testimony?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. So, public testimony is closed, and we'll accept written testimony into the record.

. . . END PUBLIC TESTIMONY . . .

CHAIR PALTIN: Under Rule 7(B) of the Rules of the Council, the Committee intends to discuss matters relating to a proposed conditional change in zoning to West Maui Project District 5, Pulelehua, for real property identified as Tax Map Keys (2) 4-3-001:082 and (2) 4-3-001:083, collectively comprising 304.255 acres in Mahinahina, Kahana, Lahaina, Maui, Hawai'i. The Committee may discuss the proposed conditional change in zoning to West Maui Project District 5, Pulelehua, with the Department of Environmental Management, Department of Housing, Department of Parks and Recreation, Department of Planning, Department of Water Supply, Maui Nui Resiliency Hui, and Maui Oceanview LP, and other related matters. No legislative action will be taken because this has already been referred to the Planning Committee...Planning Commission, and my understanding, from what Mr. Dias said is, they would take it up December 10th. So, the purpose of this discussion is to give them more information to discuss when it comes before them. So, I'd like to kind of try to keep the discussion a little bit tight to what the proposed condition amendments are. But also, if there are any updates from the developer in terms of compliance with State law and the DLIR, I would like to hear those...but mostly stay on topic of what the condition amendments could be. Any...any updates from our...oh, Ms. Bunn. *(pause)* Staff, can you unmute her video and microphone?

MS. APO TAKAYAMA: Her video and mic are enabled. I believe she'll just need to do so on her end.

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CHAIR PALTIN: Oh, okay. Thank you. Ms. Bunn, if you can unmute on your end.

MS. BUNN: It's done, thank you. Aloha, Chair Paltin, Vice-Chair U'u-Hodgins, Committee Members, konnichiwa. I'm Pam Bunn. I met you the last time I was here, and I want to thank you for the opportunity to be with you again today. I realize that today's agenda is to discuss the deletion of two conditions from 2011 Ordinance 3889. So, I'm going to keep this update very brief, and I want to discuss the prevailing wage issue that has been raised, both in testimony on October 30th, and again in testimony today. As I told you all last time, and I'm sure was probably obvious, I am not a labor lawyer, it is not my specialty. I could not evaluate whether the housing provider was in compliance or not. The update is that the housing provider has since retained one of the preeminent Hawai'i labor lawyers. It's Richard Rand from the Marr . . . *(inaudible)*. . . firm, who is now working with both the housing provider and the DLIR to bring the project into compliance. What that is going to consist of is getting from the contractor who did the grading work...getting a calculation of the delta, essentially, between what was paid and what prevailing wage would have been for the entire work that was done, even though only a small portion of it was for Phase 1. We expect to have that within 30 days, and then it would be submitted to DLIR for approval, and upon approval, it will be paid within 120 days. So, the housing provider is not going to make any argument about it, he just wants to get it done to ensure that this affordable housing project, which is so desperately needed, is not going to suffer any unnecessary delays. So, right now, I think we're in the position, or we will be soon, of awaiting instruction from DLIR whether they approve the amount that the contractor has calculated. And, you know, we just don't want to delay construction and provision of this needed housing. So, we're going to leave that to the experts at DLIR, and expert legal counsel, and we'll provide any updates as needed immediately. You know, if there are calculations, and there's a problem with approval, something like that, we'll obviously come back and update you. But what we expect to get is to have the calculations done, approved, and paid. Now, the...I think Kai Nishiki is going to give a presentation on the issues that are actually . . . *(inaudible)*. . . today. Thank you.

CHAIR PALTIN: You mean update. Ms. Nishiki is going to give us her update.

MS. BUNN: Exactly.

CHAIR PALTIN: Thank you. And I believe Staff can assist with sharing screen. *(pause)* You can go ahead, Ms. Nishiki.

MS. NISHIKI: Okay. Aloha Chair, and Committee Members. We have a update on the matter at hand. Thank you very much for your time and consideration. So, yes, that was the opening slide. Will you please advance? This slide just provides the condition we're discussing today for your reference, and outlines the various components it entails for which the project has complied. Next slide, please. The project has satisfied the water requirements by drilling two wells that can serve the entire five-phase project, as well as secured a water agreement for surface water that can serve the entire five-phase project as well. We understand that the issues surrounding surface water are very

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sensitive to the communi...and are very sensitive to the community's concerns, and respect their desire to protect stream water. The preference of the project is to utilize--it's two wells that can serve the entire project. Ultimately, the Commission on Water Resource Management makes this decision, and we have provided the two source permit applications because the water delivery agreement was part of the project purchase from Maui Land & Pine. Therefore, we have provided all information in the application to CWRM--Commission on Water Resource Management--and trust that they will make a decision that is in the best interest of the community, and supports its responsible...its responsibility to manage this public trust resource. Next slide, please. Condition 2 creates inconsistent application of County law for an affordable housing project. The County Water Code already requires proof of reliable water source before final subdivision and building permits can be issued. Due to Condition 2, the County has not managed this project the way it would any other 2.96 or 100 percent affordable housing project. So, until the condition is deleted, the project is not being considered eligible for permits to start putting in the community-serving infrastructure, like transmission lines for water, wastewater, and underground utilities. In essence, Condition 2 duplicates the requirements of Chapter 14.12, Maui County Code, but without the ability to receive building permits for meeting the gold standard of 100 percent affordability. This creates inequality for an affordable housing project, and installing the infrastructure...or the installation of community-serving infrastructure. Slide five...or next slide, please. Water availability. This slide allows...shows that 2.96 allows projects and 100 affordable housing projects to receive building permits without proving water source. Pulelehua has already proven water source, and is providing its own water for the entire project. The intent in removing Condition 2 is to allow the project to be issued permits under the exemption section of this policy so that it can begin building community-serving infrastructure while awaiting CWRM approval. Next slide, please. The project simply needs two years to construct waterlines, wastewater lines, underground utilities, water treatment facilities, et cetera, and to begin building the much-needed rental units. The removal of Condition 2 helps with the project's eligibility to be issued building permits to start this critical infrastructure work while CWRM conducts its review. The project would like to get to work while it's awaiting CWRM approval, and not removing Condition 2 would delay the project by two years unnecessarily. Final slide, please. Pulelehua is providing at least two times the affordable units required by 2.96, Maui County Code, and has proven two times the water source required by 14.12, Maui County Code, regardless of its 100 percent affordable status. The request before you today is that Pulelehua be allowed to move forward now with putting in community-serving infrastructure that will expedite permanent housing for those impacted by the Lahaina fire. Deleting Condition 2 is a pathway forward for infrastructure progress to begin. Mahalo. And our team will be here to answer your questions.

CHAIR PALTIN: Okay, thank you. And I believe Director McCall, the last meeting in the presentation portion, did speak to Condition 14. Member U'u-Hodgins had an additional suggestion to cure the mismatch of LUC and County conditioning. Let's start off with...I'm not going to micromanage you guys. You ask whatever questions pertaining to the amendments to the conditions. And I will go in order that is on my sheet. So, Committee, you guys want to do...what do you think, four minutes, five

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minutes? Five minutes? Okay. We'll do a five-minute round robin and keep going as long as we need. But I do have a hard stop at 4:30 because today is Wednesday, and the community meeting. So, five minutes for Committee Vice-Chair U'u-Hodgins. You know all the resources, right? You don't need me to repeat them?

VICE-CHAIR U'U-HODGINS: I got it. Thanks, Chair. Couple things before I begin some questions. Ms. Nishiki, can you confirm that you're a consultant for Pulelehua?

MS. NISHIKI: Yes, we are.

VICE-CHAIR U'U-HODGINS: Thank you. I just want to ensure that, you know, you have the authority of which you clearly are really knowledgeable about this project. So, I just want to confirm that you are a consultant for this project. And then two, as it relates to prevailing wage, until they come into compliance with the law, I don't think they should have access to any monies, which means that this project really couldn't be built. So, I understand that we're going to limit the conversation to conditions, but compliance with State law, and thus our law, is a prerequisite to getting any funds, and therefore starting construction. But I do understand that we can keep it tight to Condition 2...and 15 [sic], which I really don't have too many issues about because Parks said that we had met that condition. I do want to discuss, though --

CHAIR PALTIN: 14.

VICE-CHAIR U'U-HODGINS: -- oh, 14, yes. Thank you. We had a previous resolution in 2023, 206, where we discussed this project as well, where one of the conditions in the...well, in the be it resolved issues, that Condition 2 has been satisfied. And ultimately, we removed that language in the FD1 version, I think. But I want you guys, if you could explain to me if it's been satisfied. And we had that discussion, why does it need to be removed now?

MS. NISHIKI: So, I think that that is...that that was covered under why delete the condition and it is just that it is inconsistent in its application and so, it's kind of...it's a duplicate...it's a duplicate condition. It's already...it is already addressed through the County Water Code, and also Chapter 14.12. And so, all we're looking for is the ability to put in that County...or that community-serving infrastructure.

VICE-CHAIR U'U-HODGINS: Okay. Do you guys need a subdivision? And if so, when you have to show your water for your subdivision approval, how is that going to work?

MS. NISHIKI: So, I guess I just want to bring up a couple things in relation to that. We will be seeking clarification from the Department of Water Supply after this matter is discussed with the Maui Planning Commission and the County Council, and they will make that determination. But they are aware of all of these things, and they're actually one of the departments that pointed out that Condition 2 would help in their determination.

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VICE-CHAIR U‘U-HODGINS: Okay. In the LUC’s approval, Condition J...are you familiar? I’ll read it to you.

MS. NISHIKI: Can you --

VICE-CHAIR U‘U-HODGINS: Yep. Yep, okay. It says, petitioner will develop a private water treatment plant. The source of the water may be groundwater or surface water, if available, approved by relevant regulatory agencies, and you can connect a groundwater system. But really, it’s that first line that makes sense for my questioning, a private water treatment plant. What’s your status on that, and how does the removal of Condition 2 affect your LUC condition approvals?

MS. NISHIKI: So, in developing the well, there is a RO treatment component to that, and that has been designed already. And so, that is part of the infrastructure that will be developed as soon as we receive the permit.

VICE-CHAIR U‘U-HODGINS: Okay. And how long do you think that’s going to take to be developed?

MS. NISHIKI: Less than two years...within approximately one year.

VICE-CHAIR U‘U-HODGINS: And is that after CWRM reviews it, or how does that work? Like CWRM has to review your well permits, is that the same thing? Do they also have to review that as well?

MS. BUNN: Could I jump in and reply?

CHAIR PALTIN: Ms. Bunn.

VICE-CHAIR U‘U-HODGINS: Yes.

MS. BUNN: Thank you. CWRM has already approved the well permit as far as drilling the wells. The wells are drilled.

VICE-CHAIR U‘U-HODGINS: Yes.

MS. BUNN: It has approved the use permits. . . .*(timer sounds)*. . .

VICE-CHAIR U‘U-HODGINS: Yes.

MS. BUNN: Our old facility is not something that’s approved by CWRM. That goes through the Department of Health.

VICE-CHAIR U‘U-HODGINS: Okay.

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MS. BUNN: They've already looked at it preliminarily. And then, you know, they will have to look at it more as it goes on and gets tested, but that's a Department of Health approval, and not a Water Commission.

VICE-CHAIR U'U-HODGINS: Okay. And then... . . .*(timer sounds)*. . . oh, I'm sorry. I heard the bell. I'll come back. Thanks.

CHAIR PALTIN: And then, if I could just jump in to clarify, Member U'u-Hodgins' line of questioning about the approval of the RO, it depends kind of on which source that CWRM ultimately approves. Because if they ultimately approve the ditch water, we're talking about a water treatment facility. But if they approve the well water, then we're talking about an RO facility; is that correct?

MS. BUNN: That is. . . .*(inaudible)*. . .

CHAIR PALTIN: So, you would get carded on building one or the other until and if CWRM tells you which source that you would be able to use; is that correct?

MS. BUNN: That is correct.

CHAIR PALTIN: Okay. I just wanted to keep us all on the same page of why, what timeline. Okay. Next on my list, Member Cook, your five minutes.

COUNCILMEMBER COOK: Thank you, Chair. My question, I guess, for Ms. Nishiki. The...we've discussed in the past and requested sort of just like a financial assessment for the project, which I'll forward to you again in writing. But I'm just curious. With the economic situation that is occurring, is there any changing in the...has there been any changes in the financing of the project? Are there any challenges that we should be aware of in financing of the project? My concern is...I'm supportive of the project, I'm supportive of West Maui, I'm supportive of housing. My concern is the ability to basically embark on this project, and complete this project, and meet all the goals and objectives, and utilize the affordable housing funds as they've been intended for infrastructure, et cetera.

MS. NISHIKI: Thank you, Member Cook. Yes, so, as you...as you know, grants are reimbursable. So, the housing provider will be utilizing their own funding to construct all of these things, and then ask for reimbursement from the County for that. And the only challenge right now is these consistent delays in getting the project started. Because as you know, as a builder, delays cost money. So, the best thing for the project's viability is to get started as soon as possible. And so, you know, that's one of the reasons that we are here today.

COUNCILMEMBER COOK: Okay, thank you. That kind of didn't really answer my question. I recognize that the funds will be reimbursed, and it's a question of whether the developer...has there been any significant changes should be...do we have the confidence that the developer has the capital and the ability to do this major project from beginning to end? Have there been any changes in any of the commitments to

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funding for the project? Is there...I'm just...I've asked this before. My main concern is they're going to start on a multi-multi-million dollar project that we're all counting on, and I'd hate to see it get halfway through and their not have not the capacity to be able to complete it. That's my question and my concern. Thank you.

MS. NISHIKI: Yes. The developer has the means and ability to move forward on the project as soon as permits are issued. Absolutely.

COUNCILMEMBER COOK: Okay.

MS. NISHIKI: And feel free to send us an email, and we can discuss any other issues via email.

COUNCILMEMBER COOK: Okay, cool. With the Chair's permission, we'll just request...submit something for the Committee to be forwarded to the developer.

CHAIR PALTIN: Sure, we can do that.

COUNCILMEMBER COOK: Okay, thank you. Bye...I mean, thank you, Chair.

CHAIR PALTIN: Sure. I mean, thank you, Staff.

COUNCILMEMBER COOK: Thank you, Staff.

CHAIR PALTIN: I think you still have some minutes, was that...

COUNCILMEMBER COOK: I'm all good.

CHAIR PALTIN: Okay. It looks like we're a little bit at bare quorum, unless Member Sinenci is still on. So, if anyone needs to...oh, there's Member Sinenci. Okay, cool. All right. Next on the list is Councilmember Rawlins-Fernandez, to be followed by Member Sinenci, to be followed by Chair Lee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I don't have any questions for clarification. I understand. I think...mahalo, Ms. Nishiki, for your presentation. Yep, support.

CHAIR PALTIN: Okay, thank you. It looks like Member Kama just joined the proceedings...maybe?

COUNCILMEMBER KAMA: Yes, Chair. I just got home. Good afternoon, everyone.

CHAIR PALTIN: Konnichiwa, and aloha 'auinalā. Are you alone in your workspace?

COUNCILMEMBER KAMA: Konnichiwa, and aloha 'auinalā. And yes, I am alone in my workspace.

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CHAIR PALTIN: Okay. We had a short update kind of presentation. The developer has hired a labor attorney. They look to get the certified payroll delta in 30 days, and then pay it within 120 days. There was a presentation up...or update slides uploaded to Granicus. It would be your turn to ask questions, but do you want me to come back to you after Member Sinenci and Chair Lee?

COUNCILMEMBER KAMA: Thank you, Chair. Yes.

CHAIR PALTIN: Okay. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarifying question for Ms. Bunn. She mentioned the...and sorry, if I didn't quite get all of her explanation about the DLIR?

MS. BUNN: Yes.

COUNCILMEMBER SINENCI: If she could explain that again, sorry, for me. I didn't quite get that part.

MS. BUNN: No, thank you for the question, Councilmember. There had been previously some communication with the DLIR, and the DLIR, you know, thought that prevailing wage should be paid. So, now, the attorney that the housing provider has retained is in communication with DLIR. And the way they're going to approach it is go back to the contractor to get the delta between what was actually paid and what would have been paid under prevailing wage. Then the DLIR would look at that calculation and either approve it or not approve it, and send it back, and do it again. But once the DLIR approves the calculation, then the housing provider would pay that amount to the contractor, to be paid to the employees.

COUNCILMEMBER SINENCI: Oh, okay. Got it. And that was what the Chair was explaining about the delta between prevailing wage. So, we are addressing that issue that some of the Union guys are bringing up.

MS. BUNN: We're addressing it squarely. Yes.

COUNCILMEMBER SINENCI: Okay, great. All right. That was my only question for now, Chair. Thank you.

CHAIR PALTIN: No problem. Okay, Chair Lee.

COUNCILMEMBER LEE: Thank you. I'll just go back to the question...the issue of removing the condition. What is required to remove the condition?

CHAIR PALTIN: Well, on our end, it needs to go through the Maui Planning Commission and get a recommendation from the Planning Commission. If there is a recommendation--and I believe it's scheduled for December 10th--if the recommendation from the Planning Commission is to remove the conditions--I think it's 2, 14, and then there's that other issue that Member U'u-Hodgins was about--then we

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would need five votes at Committee or Council to approve the Planning Commission's recommendation. If the Planning Commission doesn't support the removal of the condition and sends it back, I believe we need six votes. And if there's any lawyers on the line to fact check what I just said, I wouldn't be opposed to that. . . .*(inaudible)*. . .

COUNCILMEMBER LEE: I know this seems kind of redundant, but...

COUNCILMEMBER COOK: Mimi's on.

CHAIR PALTIN: Was that true what I said, Ms. DesJardins? Oh, you're muted. We can't hear you, Ms. DesJardins.

MS. DESJARDINS: Okay, sorry. Yes, you're correct. But I want to talk about Condition 15 when you get to that, but I'll let you folks proceed until you're ready to hear from me.

CHAIR PALTIN: Oh, okay. I thought it was Condition 14, but okay. Maybe it was 15.

COUNCILMEMBER LEE: Okay, getting back to Condition 2.

CHAIR PALTIN: Okay.

COUNCILMEMBER LEE: I just wanted to see if...to ask if an amendment is more palatable than a removal? Just wondered.

CHAIR PALTIN: It's my understanding that a removal is an amendment, but we can ask First Deputy.

COUNCILMEMBER LEE: Because I thought maybe, you know, clarification. Because it seems that Condition 2 is no longer necessary, but if there's some kind of objection to the removal, then we could possibly keep it in place, and as an alternative. Keep it in place and see...unless it doesn't apply, you know. Unless there's sufficient water, or unless something, something. So, it'll be you're kind of rendering it, you know, unusable or not applicable anymore because of the...that water is available through other means, right?

CHAIR PALTIN: Is that a question for Ms. DesJardins?

COUNCILMEMBER LEE: I don't know. Who wants to answer that? . . .*(laughing)*. . .

CHAIR PALTIN: I think the removal is considered an amendment, but go ahead, Ms. DesJardins.

MS. DESJARDINS: No, thank you, Chair. And I do believe that a removal would be considered an amendment. But at this point, you're recommending...you're sending this to the Planning Commission, so my recommendation would be with that in mind, see what they come back. They could come back with recommendations consistent with what you're sort of thinking there, Chair Lee, you know, in terms of different conditions than

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just completely removing it. So, you might want to wait and see how they weigh in on that. But yes, it would definitely be considered an amendment because you would be . . . *(inaudible)*. . . of the original conditions are.

COUNCILMEMBER LEE: I didn't mean that it wouldn't...removing...I mean, removing the condition wouldn't be an amendment. I just meant it in the sense of a clarification, amending the rule...that condition. Okay, thank you.

CHAIR PALTIN: Thank you. Member Kama, would you like me to go, or would you like to go?

COUNCILMEMBER KAMA: I had a question I wanted to ask, Chair. . . . *(laughing)*. . . So, I'm looking at Condition 2, and what they ask is to remove the condition because the condition is already being fulfilled; is that correct, Chair?

CHAIR PALTIN: Kind of. If I can clarify. They have two sources of water that they could use...one is surface water, and one is groundwater. Both would require an approved water use permit application from CWRM. I'm not sure what CWRM has been doing this past year, but they haven't been issuing water use permit applications. And so, they just recently got a new First Deputy, I don't know if you recall that whole hullabaloo with Kaleo Manuel, and the Governor, and then the whole thing. But now they have a new First Deputy, Ciara Kahahane, and so she and CWRM are going to start processing the water use permit applications. And until the water use permit application is processed by CWRM, they're not allowed to use either of their two sources, but perhaps construction could begin if someone were to grant them a will-serve letter. They wouldn't use the water, per se, until the construction of the units--I guess Phase 1 is like 240 units--occurs, but it will buy like an additional two years where the construction could be done and CWRM could be processing WUPAs--water use permit applications. And I would just fact check that with our housing resources...housing provider resources. Is that your understanding?

MS. NISHIKI: Yes, absolutely. We are just anxious to get started on the infrastructure, and then we can await CWRM's determination.

CHAIR PALTIN: Oh, Member Kama, if you're talking, you're muted.

COUNCILMEMBER KAMA: Thank you, Chair. So, that was my question that I wanted to ask. So, thank you, Chair, for answering that.

CHAIR PALTIN: Okay. We're doing five-minute rounds. Was that your only question?

COUNCILMEMBER KAMA: For now, yes. Thank you, Chair.

CHAIR PALTIN: Okay. I'll go. Yeah, the...I just was looking at the conditions...13, 14, and 15 all have to do with Parks, but 15 was the one we proposed removing because it's been satisfied. The County...this Council purchased the 50-acre park at ag land rates. And so, I'd love to hear what Ms. DesJardins wanted to say about Condition 15. Sorry, my bad, it wasn't 14.

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MS. DESJARDINS: Thank you, Chair. I just wanted to say that our department would support not actually repealing it--like removing it--but just simply, if necessary, recognize that it's been complied with if that's something that needs to be recognized. Otherwise, generally, the conditions exist in the ordinance, and they're all expected to be complied with, right? So, we wouldn't repeal them as they're complied with. So, we would just recommend that that be changed to the Council further proposes...or either remove Condition 15 in play here, or say proposes to recognize Condition 15 has been satisfied, if for some reason that's necessary. That's all I wanted to say.

CHAIR PALTIN: Oh, okay. So, maybe the amendment to 15 would be like satisfied during the whatever, whatever year budget, or something.

MS. DESJARDINS: Yeah, if...again, if it's necessary. Because otherwise, all the conditions do need to be complied with normally, and we normally just let them stand. We don't, you know, slowly remove conditions as they're complied with. We all agree it's been complied with, I don't think there's any question.

CHAIR PALTIN: Oh, okay. And then 13 and 14, where that...the two five-acre parks within Pulelehua shall be dedicated to the Parks and Recreation, and that all other park sites within Pulelehua shall be privately-owned and maintained. We're good with those?

MS. DESJARDINS: So, I don't see them as coming up in this reso, so those would just stay on the books. My assumption is, is that Pulelehua intends on complying with them as this project moves forward.

CHAIR PALTIN: Okay. All right.

MS. DESJARDINS: Yeah.

CHAIR PALTIN: Okay. Second round, we can go down the list again. Committee Vice-Chair Nohe U'u-Hodgins, your opportunity, another five minutes.

VICE-CHAIR U'U-HODGINS: Thanks, Chair. I appreciate Corp. Counsel's weighing in on Condition 15, that was good to know. I want to clarify Pulelehua's intent on removing Condition 2. So, do you guys need access to County water, or do you want your building permits to be reviewed and approved concurrently as the water is getting reviewed and approved by the State?

MS. NISHIKI: So...go ahead.

MS. BUNN: I can take a stab at it. Thank you. My understanding is that pursuant to Section 14.12.020 of the Maui County Code, you're unable...or the project is unable to get subdivision permits and other permits that it would allow it to put in infrastructure without satisfying the Show Me the Water bill. There are exceptions in the County Code that are applicable to Pulelehua, but with Condition 2, that does not have the same exceptions. So, under Condition 2, we have to have basically a will-serve letter for water

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before we can get the approvals needed to permit the infrastructure. Without Condition 2, we're going under the County Code. The County Code has the Show Me the Water bill, you know, 14.12.20, and then it has exemptions--I'm sorry, 14.12...yeah, 20. And then it has exemptions. And Pulelehua qualifies under two of the exemptions, (E) and (F). And so, it would not have to have a will-serve letter prior to getting the subdivision approval that's necessary for the permits. That's...did that answer your question?

VICE-CHAIR U'U-HODGINS: (E) and (F) exemption is from the water exemptions under that code, right? Not any of the other conditions...sorry, plenty acronyms going around.

MS. BUNN: Yes.

VICE-CHAIR U'U-HODGINS: Okay. So, you're arguing that Pulelehua should be exempt, and therefore served by the County of Water...the County of Maui Water Department?

MS. BUNN: No. That's...and I'm not really arguing anything, I'm suggesting that under the County Code --

VICE-CHAIR U'U-HODGINS: But you want a will-serve letter.

MS. BUNN: Under the County Code, we would need a will-serve letter in order to get subdivision approval.

VICE-CHAIR U'U-HODGINS: Yes.

MS. BUNN: Except for the fact that we fall within two of the exemptions. With those exemptions, we don't need a will-serve letter. We don't need water from the County, we can get subdivision approval because we're exempt from the Show Me the Water bill. So, it gives us the time to get the infrastructure in, to get the approvals we need from CoWRM without having to have a will-serve letter ahead of time. So, we don't necessarily need County water, and we're not asking for it.

VICE-CHAIR U'U-HODGINS: Okay. What's the status of your guys' wells? Like are they...from the last time we talked about it, they were quite salty. How is that going?

MS. BUNN: The wells are going to require the RO treatment that we discussed earlier...that would have to be approved by DOH.

VICE-CHAIR U'U-HODGINS: Yeah. Okay, DOH. Yes, we talked about that earlier, but that...you need that water to get your permits, and this is going to --

MS. BUNN: For --

VICE-CHAIR U'U-HODGINS: Go ahead.

MS. BUNN: For the surface water.

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VICE-CHAIR U‘U-HODGINS: The surface...yeah, yeah. Private water. Okay. So, I see that Condition 2 says that MLP shall provide potable and nonpotable source, so our transmission improvements...but when I was reading your water agreement for delivery, I couldn't find that language. Can you guys point me to where it says that it will provide potable and nonpotable water? Because I only found language for nonpotable water.

MS. BUNN: Kai, do you have it in front of you?

MS. NISHIKI: Oh, you're talking about the water delivery agreement?

VICE-CHAIR U‘U-HODGINS: Yes.

MS. BUNN: Yes.

MS. NISHIKI: Or the...for the ditch water?

VICE-CHAIR U‘U-HODGINS: I don't know, it's whatever you guys provided. It's an agreement for water delivery, Pulelehua, dated the 3rd day of June, 2016?

MS. NISHIKI: Oh, yes. Okay. So, the water...the stream water in the ditch is considered nonpotable --

VICE-CHAIR U‘U-HODGINS: Yep.

MS. NISHIKI: -- and then requires treatment. So, it's provided, and then you treat it to be potable.

VICE-CHAIR U‘U-HODGINS: Yes, I understand that. I'm asking where does it say that MLP will provide potable water? If it's not in here...or if it is, can you please show me?
...*(timer sounds)*...

MS. BUNN: Oh, it...to clarify, I don't...I think you're right. I think it doesn't say that. What it says is that MLP...I mean is providing water to be used ...*(timer sounds)*... for potable...a potable resource. In other words, we would have to then treat the water. I mean all of the water, potable or nonpotable, would be coming out of the Honokōhau Ditch...I mean just like the water used on golf courses and things like that. They would be providing it to us for a potable use, which would mean it would have to be treated.

VICE-CHAIR U‘U-HODGINS: Yeah. But my point is, is that none of the water language matches between LUC documents, the conditions for zoning for Maui County, nor the agreement for the water delivery. And I don't think that's anybody's fault here today, it's just none of it is cohesive...just like our parks water. So, here, it says potable water, nonpotable water, here it says nonpotable water, and in your LUC documents it...does it mention potable water necessarily? And it talks about all the things you guys have to do to provide water, and it's not linking up at all.

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MS. BUNN: I agree. . . .*(inaudible)*. . . reassuring is that MLP does not question its obligation under that...that agreement to provide one mgd from Honokōhau Ditch. I mean that they don't dispute that. And if we need to treat it to make it potable, that's on us.

VICE-CHAIR U'U-HODGINS: Got it. Thanks, Chair.

CHAIR PALTIN: Next up, Member Cook.

COUNCILMEMBER COOK: Thank you, Chair. Is a representative from Department of Water Supply on?

CHAIR PALTIN: We should have Deputy Landgraf. Deputy Landgraf, are you available?

MR. LANDGRAF: Yes.

CHAIR PALTIN: Awesome. Member Cook has a question for you.

MR. LANDGRAF: Okay.

COUNCILMEMBER COOK: Good afternoon, Deputy Landgraf.

MR. LANDGRAF: . . .*(inaudible)*. . .

COUNCILMEMBER COOK: How does the water...is the Department of Water Supply opposed to...supportive or opposed to eliminating this Condition 2 if...what's the feeling of that?

MR. LANDGRAF: We're not opposed to eliminating that condition.

COUNCILMEMBER COOK: Basically they would be able to...there are two sources...potential...there are two committed sources of water...their wells that will need to be treated, like a lot of other people, and the surface water that they have guaranteed as part of their land purchase agreement would satisfy their water requirements for the subdivision, and therefore the County of Maui would not be obligated to serve; is that accurate?

MR. LANDGRAF: Yes, correct. . . .*(inaudible)*. . .

COUNCILMEMBER COOK: Pardon?

MR. LANDGRAF: We believe that that's so. We don't know the amount and the source . . .*(inaudible)*. . . The amount of demand on this is . . .*(inaudible)*. . . Without knowing all of that I cannot tell you for sure, but from what it seems like they're doing, it should be enough.

COUNCILMEMBER COOK: Okay. Thank you, sir. That's really my main concern.

CHAIR PALTIN: Okay. Next up we have Member Kama.

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COUNCILMEMBER KAMA: I just want to reiterate what I think I heard Mr. Landgraf . . . *(inaudible)* . . . say, that they're not opposed removing the Condition 2, and that they are okay with the water source that MLP is going to be providing Pulelehua; is that correct, Mr. Landgraf?

MR. LANDGRAF: I'm not sure if MLP is actually providing them the source.

COUNCILMEMBER KAMA: Well, it said it...it says MLP shall provide potable and nonpotable water source.

MR. LANDGRAF: Okay, but I think you're trying to remove that condition, right?

COUNCILMEMBER KAMA: Yeah.

CHAIR PALTIN: Yeah. MLP...I think Hawai'i Water Service is the provider for MLP because MLP has very few employees anymore. So, it would be like Hawai'i Water Service providing the ditch water, I believe. And because it's not a County source, then it would be regulated by the Commission on Water Resource Management.

MR. LANDGRAF: So, you are correct, Member Kama, we are not opposed to removing Condition 2. And if whoever is providing the source, we're fine with that.

COUNCILMEMBER KAMA: Okay. Okay. Okay, I'm good, Chair. Thank you.

CHAIR PALTIN: Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and mahalo, Ms. Bunn and Ms. Nishiki. Okay, that was a lot of information, so I am going to go over what I heard in discussion to ensure that I understood everything correctly. All right. So, housing projects are held to...or all housing projects are held to Show Me the Water, which is Maui County Code, Section 14.12.020. This Chapter shall apply to all subdivisions, including subdivisions bonded pursuant to sections, and then it names some sections, unless exempted under 14.12.030. Under our two exemptions under Title 14, (E), which reads, "Residential workforce housing units developed by a qualified housing provider under Chapter 2.96 and are under...and are within the service area of the department's Central or West Maui water systems; and (F), residential development projects with 100 percent affordable housing units that are within the service area of the department's Central or West Maui water systems. Pulelehua, unlike other housing projects, has an additional...or has a condition in this agreement, Condition 2, and that's the condition that are being...that is being proposed to be removed because it has been satisfied. However, this condition has been...has become somewhat of a barrier to immediately being treated like other housing projects that would immediately be considered for exemptions (E) or (F); is that correct?

MS. BUNN: That's exactly correct.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, okay. All right. And so, Pulelehua has the water, and it's being reviewed. The water use permit is being reviewed by State agency, Commission on Water Resource Management. And it is busy reviewing lots of permits because West Maui . . . *(laughing)*. . . was...just received a designation of groundwater and surface water protection. And so, during this time, the project just needs water on paper so that it can build the infrastructure at its...at the project's own cost, not to the cost of the County. And so, if after the project's infrastructure the water lines are put in, and the County decides not to reimburse this project for putting in that construction, for putting in the water lines, then that is the developer's own risk. Is that a correct understanding?

MS. BUNN: I'm not sure if I understood the question, Councilmember. If the infrastructure that is put in is used to provide water to the residents of the affordable housing project, then I'm not sure why it wouldn't be able to be, you know, reimbursed as part of the grant funding. If it's used to provide water from wherever, if it's used to get water from the wells into the buildings, or from the streams into the buildings, or County water. I mean as long as it's used, the infrastructure is put in service to provide water to the residents, I would think it would --

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll clarify my question.

MS. BUNN: Okay. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, as Ms. Nishiki explained earlier about grants being...our County policy having a reimbursement, so the cost of putting the infrastructure in is on the developer until the County reimburses the developer for those costs.

MS. BUNN: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo.

MS. BUNN: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And so, while we argue over how salty the water is or isn't, and we could be putting in that infrastructure. And that infrastructure would be put in at the cost of the developer, and the County would still hold all the cards. And so, the safeguard is in place that if anything . . . *(timer sounds)*. . . is abused...if anything is done in the way that the County did not agree to, then the County would just not reimburse the developer; is that correct?

MS. BUNN: I understand your question now. Yes, that's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Bunn. Mahalo, Chair.

CHAIR PALTIN: Sure. Member Sinenci.

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COUNCILMEMBER SINENCI: Thank you, Chair. I just had one clarification, Chair. So, we're not voting on this today, but the bill...did we vote to have it forwarded to the Planning Commission already?

CHAIR PALTIN: Yeah.

COUNCILMEMBER SINENCI: Yeah, okay.

CHAIR PALTIN: It's tentatively scheduled at the Planning Commission December 10th.

COUNCILMEMBER SINENCI: And remind me again, what is their decision? It sounds like the Department of Water Supply is okay.

CHAIR PALTIN: They would give a recommendation whether or not to remove Condition 2. And I guess what was transmitted was to remove Condition 15, which the advice has been to just keep it in, we can indicate it's been satisfied. So, that's an update to the second part of it. If they recommend approval of removing Condition 2, and I guess amending 15, to say that it's been satisfied, then it would come back to us, and it would take five votes to remove Condition 2. If they don't recommend it, then it would come back to us, and it would take six votes to amend Condition 2 and amend Condition 15.

COUNCILMEMBER SINENCI: Oh, they have an option not to vote on it?

CHAIR PALTIN: They have an option to recommend or not recommend...I mean recommend approval of the removal of Condition 2, or recommend disapproval of the removal of Condition 2. That's a mouthful.

COUNCILMEMBER SINENCI: All right. Thank you for that clarification. That's all I have, Chair. Thank you.

CHAIR PALTIN: Okay. Chair Lee?

COUNCILMEMBER LEE: So, Ms. Nishiki, which department is interpreting the situation so that Condition 2 is an obstruction to the project moving forward? Is there...is it Public Works, or which...which department, or who's making the call?

MS. NISHIKI: Ultimately that would be the DWS. So, we're happy to hear that they have no issue with removing Condition 2. Thank you.

COUNCILMEMBER LEE: So, that was my thinking as well. So, I'm thinking there's another department. So, there isn't another department that has objections to this project moving forward?

MS. NISHIKI: Not that we're aware of.

COUNCILMEMBER LEE: Why are we here? I mean, you know, what's the issue here now? What are we trying to achieve here now? If none of the departments have an objection...

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CHAIR PALTIN: I guess political? I don't know.

COUNCILMEMBER LEE: We still have to go through the motions of moving this back to the Planning Commission, waiting for their --

CHAIR PALTIN: Because Condition 2 is in there until it gets removed, unless the Mayor would do an emergency proclamation or something.

COUNCILMEMBER LEE: No, but if something doesn't apply as--you know, as our Corp. Counsel was saying--you know, as conditions are met, you don't go in and remove them, yeah? They're just...you just acknowledge that they were met. You don't have to remove the condition.

CHAIR PALTIN: This was my best effort at moving this thing forward. I don't know. I'm not a lawyer, I just throw all the spaghetti at the wall and see if it sticks.

COUNCILMEMBER LEE: No. I'm not...this is no reflection on you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Maybe ask DWS, Chair Lee.

CHAIR PALTIN: Oh.

COUNCILMEMBER RAWLINS-FERNANDEZ: Maybe ask DWS your question.

CHAIR PALTIN: Deputy Landgraf.

COUNCILMEMBER LEE: Deputy Landgraf, DWS?

MR. LANDGRAF: Yes, go ahead.

COUNCILMEMBER LEE: Okay. My understanding is that your department has no objections to this . . . *(inaudible)* . . .

MR. LANDGRAF: Yes, we're not opposed to removing Condition 2. Correct.

COUNCILMEMBER LEE: Yeah, I heard that and I just wanted to hear it again.

MR. LANDGRAF: Okay.

COUNCILMEMBER LEE: What clarification...I'm sorry, Member Rawlins-Fernandez, I'm not sure what question you wanted me to ask of DWS.

CHAIR PALTIN: I think she was going to ask you, Deputy Landgraf, if you're okay with removing it, do we actually need to go through the motions of removing it if it's been satisfied that they show they have the water, they just haven't shown that CWRM will let them use the water that they have?

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MR. LANDGRAF: Okay, I'm not sure on the answer to that. That may be a Corp. Counsel.

CHAIR PALTIN: Ms. DesJardins.

MR. LANDGRAF: I'm not a legal person on that.

CHAIR PALTIN: I guess if it's been shown that they have the water to provide, then they met the condition, and why are we here? Why does DWS need Condition 2 removed to move forward with the project?

MS. DESJARDINS: Oh, Chair?

CHAIR PALTIN: Yes.

MS. DESJARDINS: . . .*(inaudible)*. . . If you read the plain language of Condition 2, it simply states that they shall provide potable and nonpotable water source, storage and transmission improvements necessary to serve Pulelehua, in accordance with the requirements of the County of Maui Department of Water Supply. That's the entire condition. So, I don't see a condition in here that says prior to receiving a permit or anything like that. It just simply says that if the Department of Water Supply is satisfied that the condition has been met, that they have provided potable and nonpotable water, it sounds like that condition is in the hands of the Department of Water Supply. I don't know why this got put in here. At the time, the 14.12.030 that Ms. Rawlins-Fernandez pointed out, that was the law back at the time that the Council, in 2011, put this condition in this change of zoning ordinance. So, I don't know the history, we can look it up before the Maui Planning Commission meeting, if necessary. But I don't...from reading the condition, it just simply says they've got to provide potable and nonpotable water per the instructions of the Department of Water Supply.

MR. LANDGRAF: I think it has to do with Show Me the Water.

COUNCILMEMBER LEE: Okay. But now, we've established that Show Me the Water doesn't apply. . . .*(timer sounds)*. . .

CHAIR PALTIN: Because it falls under an exception.

COUNCILMEMBER LEE: Yes.

MS. DESJARDINS: Well, it does fall under exception, except that Council, at the time, put it in here despite that exception. That's the issue, right? Because that exception didn't come out after 2011. I looked at the ordinance, and it looks like it was in place, you know, probably at the time. But we can do a little bit more legislative research on that before the Planning Commission looks at it. I don't know.

CHAIR PALTIN: Okay. I just wanted to let folks know, Ms. Bunn will need to leave soon. So, if there's any pressing questions for Ms. Bunn--and I have one I wanted to ask, and it

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is my turn, so I'm going to go. You said that 30 days to get the records, calculate the delta, and then submit that to DLIR. And then the 120 days you were talking about, is that time frame for DLIR to sort of approve the certifications and then collect payment, or...why 120 days if within the 30 days they get the certified payroll, they figure out what the delta is, and DLIR approves it, is it like 120 days max, or is the 120 days the ball is in the DLIR court to say that this is correct math?

MS. BUNN: My understanding--and maybe Ms. Nishiki can correct me if I'm wrong--my understanding of it is that the 120 days is the time from once the DLIR approves the calculations until employees are paid. So, it has to go through the contractor and then to the employees.

CHAIR PALTIN: Oh, so that's a time frame that the contractor has to get the money to the employees?

MS. BUNN: I believe that's correct. That's how I interpret what was written, but that the employees would be paid within 120 days of DLIR's approval of the calculations. . . .*(inaudible)*. . .

CHAIR PALTIN: So, the housing provider would pay the money to DLIR first, DLIR would give it to the contractor, and the contractor would get it to the employees.

MS. BUNN: That's my understanding.

CHAIR PALTIN: And 120 days is max, not the...it could happen prior to 120 days?

MS. BUNN: It could.

CHAIR PALTIN: Okay. All right.

MS. NISHIKI: And Councilmember Paltin, just to correct, I don't think any funds actually go to DLIR, it's just reporting. Funding is between the parties. Mahalo.

CHAIR PALTIN: Oh, so the money would go to the contractor, and the contractor would give it to the employees. Do we have any way to certify that the employees actually got the money from the contractor?

MS. BUNN: My understanding is that DLIR would probably require a certification from the contractor.

CHAIR PALTIN: Okay. All right. Did anyone else have a burning question for Ms. Bunn before she has to dig out? Oh, Member Chair Lee, then Member Kama.

COUNCILMEMBER LEE: Ms. Bunn, I just wanted to double check. So, would you think that a letter from the Department of Water Supply stating that the Condition 2 no longer is applicable be sufficient?

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MS. BUNN: You know, I think I would like to see that also come from Department of Public Works. I know they have a role in approving subdivisions.

COUNCILMEMBER LEE: Okay. Thank you.

MS. BUNN: Thank you.

CHAIR PALTIN: Any...oh, Member Kama was...

COUNCILMEMBER KAMA: Thank you, Chair.

CHAIR PALTIN: Oh, did Ms. Pajimola want to respond to Chair Lee's question? I see a hand up. Oh, can you unmute?

MS. PAJIMOLA: Yeah, can you hear me?

CHAIR PALTIN: Yes.

MS. PAJIMOLA: Thank you. I just wanted to clarify. So, under 18.04.020.F., it states, "Except for family subdivisions as described in Section 18.22.80, a consolidation and a concurrent re-subdivision that does not create additional developable lots, road widening lots, utility lots, and easements for access or utility purposes, the Director must not approve any subdivision unless the subdivider provides written verification of long-term reliable supply of water issued by the Director of Water Supply, as established in Section 14.12.040." So, that is why the project, in order to move forward, needs to be considered exempt from Show Me the Water bill policy by DWS in order to move forward to Public Works to receive final subdivision approval and building permits.

CHAIR PALTIN: Okay. And then...sorry, Member Kama, for cutting you off.

COUNCILMEMBER KAMA: Okay. Can I go now?

CHAIR PALTIN: Yes. Sorry.

COUNCILMEMBER KAMA: Chair? Okay, thank you. Thank you. So, Ms. Bunn, in your... earlier, as you said that...comments that the BLNR...DLIR is going to be able to know through some reporting mechanism whether or not the employees have been paid according to their wage. Is there a way for us to know what that is too? Can we get a copy of that report?

MS. BUNN: I don't see why not. My assumption is that it would be public information. I mean I don't know the answer off the top of my head, but I don't see a reason why you wouldn't be able to get a copy.

COUNCILMEMBER KAMA: Yeah. Okay. Well, I'm glad that it is public information. Our problem is sometimes that we don't know where to go look for it. And so, if we ask the

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direct person directly involved and we'd probably get it from them a lot sooner than us trying to dig for wherever it may be found...if that's possible, Chair? Thank you.

MS. BUNN: Agreed. I will just clear it with the attorney, the labor attorney, to make sure, but I don't see any reason why not.

COUNCILMEMBER KAMA: Correct. Okay. Well, thank you so very much. Thank you, Chair.

MS. BUNN: Thank you.

CHAIR PALTIN: Sure. Member Kama, did you want us to draft the letter asking for that?

COUNCILMEMBER KAMA: Please, Chair. Please. Thank you.

MR. PASCUAL: Yes, Chair we can provide a letter.

CHAIR PALTIN: Okay.

COUNCILMEMBER KAMA: Thank you, Chair.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a disclosure that my two minor children have returned home from school, and my husband has returned from work, Makena Fernandez.

CHAIR PALTIN: Oh, wow. They pau late on Wednesday. Most guys pau 12:00.

COUNCILMEMBER RAWLINS-FERNANDEZ: Moloka'i.

CHAIR PALTIN: Oh, Moloka'i, that's why.

COUNCILMEMBER RAWLINS-FERNANDEZ: Friday is our early day.

CHAIR PALTIN: Oh, that's more smart. I like trade.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

CHAIR PALTIN: Okay, let's see. Where did we leave off? I guess we need a hump day over there in Lahaina, 12:00. Is there any more questions for anybody, particularly Ms. Bunn because she's leaving, but if we're done with her...anybody? Member U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: Thank you, Chair. Sorry, Ms. Bunn, I don't mean to keep you. I just have a general question, so if you need to leave, thank you so much for answering my questions.

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MS. BUNN: Sure, I'd be happy to try and answer your general question.

VICE-CHAIR U'U-HODGINS: Okay, thanks. My question is actually what Ms. Pajimola just said. So, subdivisions is going to have an issue, as we discussed earlier, but I want to talk about the last sentence that she read out, the subdivider provides a written verification of long-term reliable supply of water issued by the Director of Water Supply as established in Section yada, yada, yada. So, in this case, if you guys don't need County water--and this is again just general, not necessarily for this project but in...if this ever happens again--if a project doesn't need County water, how would the Director of Water Supply verify that a project has water if it's not going to be serviced by Maui County? And if in this case, especially for Lahaina where CWRM has approval, should the letter just not come from CWRM where they would verify that you guys have water? Like I guess even for all projects that are going to come in West Maui, or that's under CWRM.

MS. BUNN: You know --

CHAIR PALTIN: I see Deputy Landgraf's hand up, I'm not sure if he's trying to answer your question. But seeing that Ms. Bunn has to leave, I'll let her try first, and then we can go to Deputy Landgraf--or your preference, Councilmember U'u-Hodgins.

VICE-CHAIR U'U-HODGINS: I know Mr. Landgraf has to go, but if he has his hand up...and so whoever can answer the question, I'd appreciate it. It doesn't matter to me.

CHAIR PALTIN: Okay.

MS. BUNN: Go ahead, Deputy Landgraf.

MR. LANDGRAF: Okay. So, what happens is in a private water system, they have their own water. Eventually that they would need something from the Department of Water Supply saying that they have a reliable source.

VICE-CHAIR U'U-HODGINS: Okay.

MR. LANDGRAF: And that's the Show Me the Water...but in order for us to say that it's a reliable source, we would need the engineering report from the Department of Health first.

VICE-CHAIR U'U-HODGINS: Okay. So, in this case, after they get their...after they go through like CWRM and then they get their DOH approval, you would get an engineering report, and then you would say yes, they have enough water? And then you would make that decision --

MR. LANDGRAF: Then they would get the permit of water...yeah, they would have a Show Me the Water letter from our department saying that.

VICE-CHAIR U'U-HODGINS: Okay. After DOH says yes, they have enough water?

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MR. LANDGRAF: They have enough water, and it's a reliable source, yes.

VICE-CHAIR U'U-HODGINS: Okay. Okay.

MS. BUNN: I don't know if there is a need for me to add anything, but your question, I think, also included CoWRM, you know, whether the Water Commission needed to provide that.

VICE-CHAIR U'U-HODGINS: Yeah.

MS. BUNN: That is essentially why we're waiting for water use permits. I mean we have one for the groundwater and one for the surface water.

VICE-CHAIR U'U-HODGINS: Yeah, yeah.

MS. BUNN: And I just anticipate that's going to take several years. They've got hundreds of permit requests as a result of the designation. There has been some delay with the new Deputy Director for Water, and they really haven't...they're just starting on them now, and they've had them for over a year.

VICE-CHAIR U'U-HODGINS: I know.

MS. BUNN: So, the problem is really time.

VICE-CHAIR U'U-HODGINS: I know the timing of it all has been anything be serendipitous where it just kind of switched over right before the fires, and it couldn't have been more of an unfortunate timing. So, I don't disagree with you on that. And it's just --

CHAIR PALTIN: Could have been more unfortunate if it happened three days before because at least everyone had gotten their water use permit applications in. So, that's a small blessing.

VICE-CHAIR U'U-HODGINS: Hmm. I guess we count them where we can. Okay, I just wanted to understand how it all works, and how it's going to work with CWRM as it relates to County water, if you don't need it and where we go from there. I will add though that, you know, majority of the time when we create housing projects, the developer covers...or it's responsible for the infrastructure. That's why everything is usually so expensive. And it's always a risk working in Hawai'i, you know, Maui especially, in trying to provide housing. I think Pulelehua has been more than fortunate when it comes to a very favorable Council, whereas not all housing providers get this favorability that Pulelehua has been shown. So, the risk definitely increases. But luckily for you in this case, less so. I don't think I have any more questions, but I am going to make sure that prevailing wage is followed, and I appreciate you guys following the law. It probably would have allowed for less delays had you guys followed the law from the beginning, but I do appreciate your stance on it now. Thanks, Chair.

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MS. BUNN: Thank you all, unless there are any other questions for me.

MR. LANDGRAF: Okay, so one more thing. So, once...the reason why DPW is involved is when it goes for the subdivision, before they get the final plan, they will need that Show Me the Water letter from us. That's part of the process.

MS. BUNN: Yep. Unless it's exempt.

MR. LANDGRAF: Yes.

CHAIR PALTIN: Member Cook have a question...if Member U'u-Hodgins was finished? Okay, Member Cook.

COUNCILMEMBER COOK: So, Deputy Director, does that mean that they could get a permit, they can build...put in the infrastructure, they can go forward, but before they get a CO, they need something from DWS? *(pause)* You're on mute. I don't know if you're --

MR. LANDGRAF: Yeah. I'm going let our engineer speak, who is Jase Miyabuchi.

MR. MIYABUCHI: Hi, my name is Jase Miyabuchi, I'm the District Engineer for Water for the West Side. The question was if they applied for a permit prior to their trying to subdivide the property? Is that the question?

COUNCILMEMBER COOK: Nohe, is that the question?

CHAIR PALTIN: I thought it was your question.

COUNCILMEMBER COOK: Yeah, no. I'm just saying, I'm under the impression that they basically have subdivided the property, and they are ready to start construction, and they're waiting for this...the water issue to be addressed so that they can start installing the infrastructure. They can't install infrastructure if they don't have a subdivision plan and know where the roads and pipes and everything are going. I may be mistaken.

MS. BUNN: Was that to me?

COUNCILMEMBER COOK: That was a...no, sorry.

MS. BUNN: Oh, I'm sorry. I guess it relates to DWS.

COUNCILMEMBER COOK: So, anyway, back to the Department of Water Supply. Could you give clarification of the current status of the project and it's being able to be permitted?

MR. MIYABUCHI: Well, specifically...again, projects that are providing a private source, if we skip...the permit comes to our department for approval, we'll N/A it, it'll be not applicable because their source...we have no jurisdiction over the building permit approval because the source is private.

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COUNCILMEMBER COOK: Okay. So, then would the Department of Public Works acknowledge that, and would they have any other requirements?

MR. MIYABUCHI: You would probably have to talk to DSA, Development Services Administration, about that...if they have any other requirements for the permits.

COUNCILMEMBER COOK: Okay. Thank you both from the Department of Water Supply. Mahalo.

CHAIR PALTIN: Thank you. Members, have we exhausted discussion here or question? Oh, Member U'u-Hodgins, and then Member Rawlins-Fernandez.

VICE-CHAIR U'U-HODGINS: Thanks. I think for Member Cook's sake, so I can understand, I think his original first question was, do you guys have subdivision...final subdivision approval?

COUNCILMEMBER COOK: Correct.

VICE-CHAIR U'U-HODGINS: . . .*(inaudible)*. . .

CHAIR PALTIN: And that's for Mr. Miyabuchi or Deputy Landgraf? No?

VICE-CHAIR U'U-HODGINS: No. That would be for either Ms. Nishiki or Ms. Bunn. Do you guys have final subdivision approval?

CHAIR PALTIN: Oh.

MS. NISHIKI: We do not. We have preliminary subdivision approval.

VICE-CHAIR U'U-HODGINS: Not final. Because I think they would need this approval from Water to get final subdivision approval --

MS. NISHIKI: Yes.

VICE-CHAIR U'U-HODGINS: -- from Public Works.

MS. NISHIKI: Yes.

VICE-CHAIR U'U-HODGINS: It's hindering their approval process in subdivisions. So, I think that's the crux of the overall condition removal.

MS. NISHIKI: Right.

VICE-CHAIR U'U-HODGINS: If they can provide water.

MS. NISHIKI: Yeah, I believe . . .*(inaudible)*. . .

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VICE-CHAIR U‘U-HODGINS: Yeah.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I’m going to...with some of the questions that were just asked, it was...it made things like less clear again. So, I’m going to try again for my own understanding with the resources. Okay. First, with the condition. So, with Condition 2 remaining in the agreement, Department of Water Supply goes to the condition, and expects reliable source, and needs that reliable source in order to sign off on water reliability. And then after that, subdivision approval would come from Public Works. Without the condition, DWS would go straight to Title 14, and the project would qualify for exemption (E) or (F), which then Department of Water Supply would provide the...Public Works with the letter saying that Show Me the Water has been satisfied because it’s exempt. So, then Public Works would then approve the subdivision permit.

MS. BUNN: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: And mahalo, Ms. Bunn. And then Deputy Director Landgraf, if you could confirm my understanding is correct...or correct me.

COUNCILMEMBER LEE: Well, I wouldn’t do that.

CHAIR PALTIN: All the mics are hot. Just a reminder.

MR. LANDGRAF: I’ll let the engineer...District Engineer speak, Jase.

CHAIR PALTIN: Mr. Miyabuchi?

MR. MIYABUCHI: Yeah. So...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, start with...start with the condition in place.

MR. MIYABUCHI: Yeah. So, whether or not that condition exists, if they try to subdivide and they’re claiming private water, then that process you spoke about is correct. We would need to make sure that DOH has approved the engineering report for the private water system. And once we get that, we will say that the project has a long-term reliable supply...private source long-term reliable supply based upon DOH’s approval and acceptance of the engineering reporting . . .*(inaudible)*. . . So, whether that...whether the language exists or not, if they come in and claim private, that’s the process. If the --

COUNCILMEMBER RAWLINS-FERNANDEZ: Whether they come and claim what?

MR. MIYABUCHI: Whether that condition exists or not, and the subdivision...the subdivider tries to come in and claims private water, that would be the process. It would carry out to that private water process. If that condition does not exist, they could try and claim

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County water, right? They could try and say they'd need County water, and it would be a different...kind of a different path, in other words. So, whether that condition exists or not, as long as they try to come in and say private water, then we'll go with the DOH.

COUNCILMEMBER RAWLINS-FERNANDEZ: And what if they qualify for the exemption to Show Me the Water?

MR. MIYABUCHI: So, there...it's not an exemption, right? We would say that they have a...the language we'd use is called a long-term reliable supply of water. That's the term we use once DOH approves the engineering report for the private ones. They're only exempt under certain other conditions and build on different conditions. They'd use the term exempt. But if they come in with their wells, and they're serving a certain amount of people, and DOH has reviewed and approved their engineering report for that private water well system, then the language we would use in the Show Me the Water letter is, they have a long-term reliable source of water based upon DOH's approval in their private system.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And so, will you please explain what the process will be clearly when the condition is...when Condition 2 is removed.

MR. MIYABUCHI: So, if Condition 2 is removed, will the subdivider try and come in and ask for County water?

MS. BUNN: That's not what the subdivider is doing.

MR. MIYABUCHI: Okay. So, then again, as I stated earlier, if the condition is removed, and the subdivider is still trying to come in with a private water source, a well source, the same path would be followed, right. So, DOH, engineering report approval, long-term reliable supply letter.

COUNCILMEMBER RAWLINS-FERNANDEZ: Ms. Bunn?

MS. BUNN: I would like to have Deputy Corp. Counsel's opinion on the exemptions, 14.12.030, that says this Chapter does not apply to the following, and two of the following are (E), and (F), which Pulelehua qualifies for. So, the Chapter is basically the Show Me the Water bill, it's Chapter 14.12.

COUNCILMEMBER RAWLINS-FERNANDEZ: Ms. DesJardins?

MS. DESJARDINS: Yep. Can you see me?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, and hear you.

MS. DESJARDINS: Okay. So, thanks, Ms. Rawlins-Fernandez, for the clarification because I'm getting a little confused here too. What I hear is that because this is a private water system and not a County water system request, it doesn't matter whether number 2 is there or not. The Department of Health has to approve that engineering plan because

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it's a private system. All I can say about the exemptions, Ms. Bunn, is that I know that they existed at the time that the ordinance was passed because they passed in April of the same year, this ordinance passed in November, so they were added in April. So, they clearly exist, everybody knew about them, but I have a feeling it's because this is a private system. Now, my question then to the Department of Water Supply is, do you apply those exemptions to private water systems, or do you just look for that DOH approval of the water quality of that private system before you issue? That's what I think is really at the crux of this.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Agreed. Deputy Director Landgraf?

CHAIR PALTIN: Or Mr. Miyabuchi.

MR. MIYABUCHI: So, this is Jase again. So, yes, that is true. If a project...so, generally speaking, if a project is coming in, and they do...or they do qualify for (E) and (G) [sic], we could say in that letter that yes, they are exempt. Typically though, historically again, that has been for projects that are asking for County water. Then we would use those exemptions. But again, typically, if they're coming for a private water source, which the DOH has to approve because it serves a large number of people, then we would typically go with the DOH engineering report approval. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification because we're going through this effort of removing Condition 2 with the understanding that that is the problem. But if that is not the problem, then this is all for nothing. So, please give us some kind of...oh, my God.

CHAIR PALTIN: Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can you hear me? Can you hear me?

CHAIR PALTIN: Yes, we can hear you. We never lost you. Oh, but now we can't hear you. You're muted.

COUNCILMEMBER LEE: What was she going to say?

COUNCILMEMBER COOK: She's asking for . . .(inaudible). . .

COUNCILMEMBER LEE: No, I know you're following her.

CHAIR PALTIN: She was going to say if we give the engineering report from the Department of Health to the Department of Water Supply, they can verify that they have the water?

COUNCILMEMBER LEE: And the subdivision can.

CHAIR PALTIN: And then we can do subdivision...maybe? I'm not so good at mind reading as some people think I am. . . (laughing). . . Internet something...that word. Okay. The Internet, right. Internet went down. Ask DWS to provide a solution. Oh, Internet. Oh,

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no Internet. Oh, you know what? We haven't had a recess. Who wants a recess? Oh, wait, she just came back in, shoot. I just admitted her back in, and now we see her, and we hear her.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry. Mahalo, Chair. Okay, did we get a response. Sorry, my Internet crashed.

CHAIR PALTIN: Okay. So, we're thinking that you were saying that all that we need to do is provide an engineering report from the Department of Health to the Department of Water Supply and we can move forward with subdivision approval? Is that what you said?

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that what the Department said?

CHAIR PALTIN: That's what we're --

COUNCILMEMBER RAWLINS-FERNANDEZ: We're trying...we're trying to figure out the answer here.

MR. LANDGRAF: Not quite. We got to let Jase talk again.

CHAIR PALTIN: Jase.

MR. MIYABUCHI: So, if we're talking about the engineering report again, so that engineering report, it generated from the subdivider side, but they would submit that to DOH. DOH would review that engineering report, and ultimately write these preliminary and final approval letters on that engineering report. And that letter that DOH writes, that's the letter that we see, and once we see that they've written that final letter, then that's when we come back and say okay, you have long-term reliable supply water availability letter based upon DOH's approval of that engineering report. But the report is from the subdivider side to DOH.

CHAIR PALTIN: Oh, from the subdivider side to DOH. Okay. So, that's another avenue to pursue, right?

COUNCILMEMBER RAWLINS-FERNANDEZ: So, are we pursuing removing the Condition 2 or not? Is that going to help anything? I think that's what we're trying to understand as well. And that what was told to the developer consultants is, the problem is with Condition 2, but it sounds like it's not?

CHAIR PALTIN: That's what it sounded like if the...oh, Chair Lee, go ahead. Oh, go ahead.

COUNCILMEMBER LEE: Okay. James and the guy from DSA, who's that?

CHAIR PALTIN: Jase.

COUNCILMEMBER LEE: Jase, okay. Can you guys just give us the answers? Because we're going from question to question to question when you know the answer. How about you

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just give us the answer? If you were the project developer, yeah, how would you advise that, or get the advice that you need? Because we're asking you all kinds of questions when you folks know the answers. So, pretend it's your project. How do we get from Point A to Point B and over the finish line?

CHAIR PALTIN: Either Deputy Landgraf or Mr. Miyabuchi?

MR. MIYABUCHI: Hi, this is Jase. So, if that provision is left in, is that going to stop the subdivider from trying to subdivide using that private water well system? Is there an issue with leaving that in, and they still trying come in with the private wells?

CHAIR PALTIN: That's the question. What's the answer?

MR. MIYABUCHI: It shouldn't, right? I mean...

CHAIR PALTIN: Well, that's what we're asking you. But the Water Department has repeatedly pointed to Condition Number 2 as the reason that we're not moving forward. But now it comes out that it shouldn't, so that's why we're asking you.

MR. MIYABUCHI: It's an impediment if that 2 remains, but they're trying to come in and ask for County water.

CHAIR PALTIN: I think the only...they were asking for County water was because you guys weren't granting subdivision approval. If you granted subdivision approval, they don't need County water because they're going to be building, and then it'll give CWRM two years to figure it out.

COUNCILMEMBER RAWLINS-FERNANDEZ: But they don't actually even need the water, they just need the approval so they can start construction on the waterline.

MR. LANDGRAF: Yes, but...so, I think that Condition 2 was put...well, this was put in a long time ago. And the only reason I can see that was put in there so that they wouldn't come to the County and ask the County Department of Water Supply for water. So, that's probably why that condition was in there. If they're going to come and they're do their own private water development, that's fine. But the thing is, is we can't give them a Show Me the Water letter until they get the report that they submit to DOH that their water is a long-term reliable source.

CHAIR PALTIN: Okay. Well, I think this discussion has been exhausted. And if the Department of Water Supply and the housing provider wants to have further conversations, they're not bound by the Sunshine Law, so they can continue to ask questions. For...I think we've exhausted all the questions. For my closing remarks, you know, I wasn't really, per se, the one that campaigned on housing. Recovery is my point, like we want to recover. Lahaina wants to recover and become a thriving community, and we can't do that because thousands of people don't have any place to live. Every single day, somebody new tells me about their problems where they don't have a place to live, they're bunked up with others, and people have been suicidal, people have been,

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you know, ready to move off-island...and I wish this was more urgent for the Administration, you know. If the fire didn't burn down all of Lahaina, whenever this project came up would be fine with me. But, we have all kind of people that have opinions that have a home and a place to sleep at night and they haven't moved 30-plus times in the last 15 months. So, that's where I'm coming from. That's the only thing I care about is my community having a safe place to sleep permanently. We're building like close to 900 temporary units that are going to evaporate in five years, and then we'll be right back to where we started on August 9th. And so, I don't know what's going on with the Administration really but, you know, in hindsight, if we were to grade ourselves, what was done on August 9th to ensure that thousands of people would have a safe place to live? The Governor...Lieutenant Governor issued an emergency proclamation on August 9th, we didn't frickin' start grading and grubbing while it was all exempt, you know. Now, over a year later, they're talking about a 50-acre Nāpili Park memorandum of understanding...like only now you figured that out? And we have two projects that are community plan approved, correct zoning, everything...and they're not moving forward. So, I mean, talk about insanity. And, you know, this condition was put in by my predecessor. I don't have nothing against it in normal times, but all of Lahaina burnt down. People are fricking desperate. They're FEMA-eligible, FEMA-not eligible, State-eligible, DHHL beneficiary--we're categorizing people into whether or not they get a house based on situations they have no control over. And meanwhile, all of us are saying like this and that and this and that, and nobody's actually solving the problem. The whole Administration basically has a home to go to at night. And I just feel that not enough is being done, and there's not enough sense of an urgency. Like you guys don't know the people that are struggling for housing, paying 7,000, 10,000, \$30,000 rent. And that's really all I have to say. If anyone has anymore comments, we can talk about it after or something. Go ahead.

COUNCILMEMBER LEE: No, I'd like to thank the Administration, James and the other guy. You know...but it's really frustrating when we have to like present all these different scenarios to you, and then you give us a response, when I think if you thought about it a little bit more, you could give us the answers. I mean if we don't need to delete Condition 2, then let's not waste our time on it. Let's focus on what the answers are, what the solutions are. I mean if you like have...like right now, have a good suggestion for us, please share it. Please. James, you don't have any ideas?

MR. LANDGRAF: Well, I...and so, I don't...we didn't...we weren't the ones who, you know, brought this up. So, we didn't, you know, know what it was being brought up for, really, in the beginning. No one told us this was coming about. And the best thing is that they just go out there and do your private water. That's the best thing...move forward with that and, you know, go through the process as quickly as you can. You don't really have to take this out.

COUNCILMEMBER LEE: You mean DWS doesn't have to take up the issue of private water?

MR. LANDGRAF: Well, DWS would have to take up the issue of the private water after they get it developed. And that would just become after it gets approved by Department of Health, and then you can have the Show Me the Water. That's our process.

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COUNCILMEMBER LEE: And do you, by any chance, have...is there County water available for this project?

MR. LANDGRAF: We can't...we cannot...we cannot say it's available right at that time period. If there's too much stuff that's going online, and we have to make sure that we can at least support everything that was there before the fire. And already, we were...some days we...the demand was higher than what the system supplied.

CHAIR PALTIN: Yeah, but you guys got no comment when we're increasing kitchenettes and adding ADUs. I mean, you want to squeeze us all into multi-family houses instead of dignified housing? Like what you're saying in one side and the other side of your mouth is not lining up.

MR. LANDGRAF: Well, a lot of those subdivisions is for temporary, if I'm not mistaken.

CHAIR PALTIN: No, we're talking about Bill 103 and 104, which just this morning you had no comment on about the extra use of water for kitchenettes. You haven't even started to discuss 103 --

MR. LANDGRAF: . . .*(inaudible)*. . .

CHAIR PALTIN: -- and we're trying to mitigate the dangers to cramming more and more people in cars into an area that 100-plus people already died because they couldn't get out. So, I'd like to be clear on what it is and what it isn't that we're providing water for. Because the tune you're singing tonight is different than the tune that was sung this morning.

MR. LANDGRAF: Okay. Well, I don't know what was sung this morning. I'm sorry.

CHAIR PALTIN: That's part of the problem. Go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And what I would add to your comments just now is, you listed a bunch of projects, including County-owned projects, Lahaina Crossroads, that wouldn't be served with water. It's under our control...under County control when that is built. And so, all that water need, along with the list that you had submitted, wouldn't be needing County water until we give those approvals. So, in the meantime, there is water for County.

MR. LANDGRAF: Okay. Sorry, Member Rawlins, I don't know what was on that list. I'm sorry.

COUNCILMEMBER LEE: I don't think . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, I don't have it memorized, but Lahaina Crossroads was definitely one, and that's County-owned. And then, in the meantime, while we drag our feet, while the County drags its feet, we could just let the construction of the waterlines be built. There's no risk to the County for that happening. It would

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be the developer. Because it's going to take two years. And so, in the meantime, we're just delaying everything. And Lahaina folks are waiting for us.

MR. LANDGRAF: Okay. Well, I don't...I mean we have to follow...we're following the process. I know it's, you know, we have to get these guys back as soon as we can, but it is part of our process. So, in order to do that, we have to work with DPW. And part of that process is, we need to have that Show Me the Water. To have Show Me the Water, we need the DOH report, the engineering.

CHAIR PALTIN: Okay. Member U'u-Hodgins?

VICE-CHAIR U'U-HODGINS: Thank you, Chair. This is why I was kind of asking that middle section of my questions about whether or not they wanted to use private water or County water, and I'm pretty sure they said private water. So, the reason I asked about the concurrent language, if there is an amendment we can make to Condition 2, to say that they're going to have private water and we're going to allow for the construction of whatever, concurrently, as we go through the process--if that's possible, I don't know--but that they are allowed to construct the infrastructure while getting approval with DOH, knowing it's going to take some time. That's why I asked about concurrent language, and that's why I asked about whether or not you folks need County water--which we don't have--and if you guys are going to use private water...and if there's a way where we could again, concurrently, allow further permitting. I don't have that language today. I don't know how it works. That's why I was asking about the process. If it goes to DOH, and then you folks--Kai guys and Pulelehua--would need to generate that engineering report. Then it goes to DOH, and then it goes to apparently CWRM, or whoever it goes to--again, so many acronyms have been thrown out. But I'm hoping if you guys use private water, which you said you will, which is why I'm assuming Condition 2 is in there, we can maybe find some way to allow for the permitting and review...because it is going to take a while, and concurrent construction. But maybe next time we have this conversation, when it comes to the floor, after it goes to Planning Commission, we can have Public Works and they can further explain how the subdivision process works. Because obviously that's confusing, and Water can only do what they can do. But really, this seems to be a subdivision issue, not necessarily water, but that's what happens, right? We have all these like permits, and reviews, that like have this process. And so, they're just one step in the process, but ultimately subdivision...Public Works approves the subdivision, not necessarily Water. Anyways, that's just my discussion. Hopefully we can figure out some sort of concurrent stuff and language. And it is confusing, which is why I had so many questions about how this works. But anyways, thank you.

CHAIR PALTIN: Thank you. I don't think we're going to get any further today. Hopefully, if it comes up December 10th, there will be an update, or prior to December 10th, or after December 10th...but we kind of drafted, hopefully, a road map. There's no stopping the housing provider from speaking to the Housing Department, the Water Department, or Public Works in the interim. Hopefully that happens. Do we all agree that we're not getting...going to get any further today? That this is...okay. All right.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member U'u-Hodgins, for at least trying to come up with a creative solution to this. It's still not clear to me--and I don't know if you want to pursue a response--if it's worth everyone's time to remove Condition 2 or not. Like it's still not clear to me. If it's not worth going through removal of Condition 2, then let's not. Because it costs like tens of thousands of dollars to put on the Planning Commission and to do all that work. And so, if it's...if it's not going to change anything, then let's stop wasting our time with Condition...with removing Condition 2.

CHAIR PALTIN: I don't think we know that answer yet. I think they have to go to the DOH with an engineering report. If they get word prior to seven days before December 10th...maybe it doesn't need to be agendaized, but we have a little bit of wiggle room. Oh, I just got a message that they submitted the engineering report to DOH over a year ago, and are still waiting for the reply. So, I think we should go forward with the condition removal in that case.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: My apologies, Deputy Landgraf. I didn't mean to come off so rude to you and Mr. Miyabuchi, and all the people.

MR. LANDGRAF: No worries.

CHAIR PALTIN: Thank you. Committee Members, if there are no objections, the Chair will defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS (excused: YLS).

ACTION: DEFER pending further discussion.


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CHAIR PALTIN: This concludes today's Disaster, Resilience, International Affairs, and Planning Committee meeting. Thank you very much, everyone. The time is now 3:32, and this meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 3:32 p.m.

APPROVED:



TAMARA PALTIN, Chair
Disaster, Resilience, International Affairs,
and Planning Committee

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Transcribed by: Terianne L. Arreola

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CERTIFICATION

I, Terianne L. Arreola, hereby certify that pages 1 through 40 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16th day of December 2024, in Makawao, Hawai'i.



Terianne Arreola